



TEXAS DISTRICT & COUNTY ATTORNEYS ASSOCIATION

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March 9, 2004

Ms. Jennifer Johnson
Secretary, Board of Governors
Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
FAX 202-452-3819

Dear Ms. Johnson,

Thank you for accepting this written comment on the proposed rules regarding the new negotiable instrument called a "substitute check" that was created by the "Check 21 Act." This letter is to inform the Federal Reserve Board that its proposed rules may unintentionally result in the inability of state authorities to investigate and prosecute financial crimes such as forgery, theft, and identity theft due to a lack of evidence resulting from the destruction of original checks.

Although a substitute check may be suitable for banking purposes, vital evidence needed to prove a criminal case in court may be lost when an original check is destroyed. It is impossible to say how many cases will actually be affected by the destruction of original checks because such empirical data is not collected or maintained in Texas. However, without the ability to lift fingerprints, compare original handwriting, or observe "washed" or "altered" areas on an original check, law enforcement officials may be unable to successfully solve many fraud cases, leaving banks and their customers without the closure (or restitution) that they seek from the criminal justice system.

To assist efforts to effectively prosecute these crimes, our association would propose that the Federal Reserve adopt rules discouraging individual banks from adopting policies that call for the immediate destruction of original checks. A reasonable retention period, taking into consideration the nature of these crimes, would be worthwhile for both banks and their customers.

I appreciate the opportunity to bring these concerns to the Board's attention.

Sincerely,

Bruce Isaacks
President

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